

### *Amendments to the Claims*

The listing of claims will replace all prior versions, and listings of claims in the application.

1. (currently amended) A computer system ~~operable to provide~~ providing backup copying of data without suspending an application program accessing the data, comprising:

a storage device storing ~~operable to store~~ block data;

a backup storage device storing ~~operable to store~~ block backup data and restoring ~~operable to store~~ the storage device multiple times and to any prior stable consistent state of the storage device stored as the block backup data; and

an intermediate block data container storing ~~operable to store~~ block backup data, wherein the computer system ~~is operable to copy~~ copies a data block from the storage device into the intermediate block data container and ~~copy~~ copies a data block from the intermediate block data container into the backup storage device during an online data backup process, and wherein the intermediate block data container is protected from data overwrite during the online backup process; and

wherein the computer system ~~is operable to manage~~ manages the online data backup process by:

compiling a list of data storage blocks located in the storage device that are subject to the data backup process;

copying a data storage block to the backup storage device pursuant to the list of data storage blocks; and

suspending a write command that is directed to a data storage block that is subject to the data backup process but has not yet been copied, copying the data storage block that is the

subject of a write command to the intermediate storage device, executing the write command and copying the data storage block from the intermediate storage device to the backup storage device,

wherein the computer system suspends a write command to the storage device during the data backup process if the intermediate block data container has reached a selected data capacity; and copies a selected amount of data from the intermediate block data container to the backup storage device.

2. (canceled)

3. (currently amended) The computer system of claim [[2]] 1, wherein the intermediate block data container is located in the storage device.

4. (original) The computer system of claim 3, wherein the intermediate block data container is a separate partition of the storage device.

5. (currently amended) The computer system of claim 1, wherein the intermediate block data container is a file within ~~the~~ a file system of the computer system.

6. (currently amended) The computer system of claim [[1]] 5, wherein the file system is further ~~operable to write~~ writes dirty pages to the storage device before initiating a data backup process.

7. (canceled)

8. (previously presented) The computer system of claim 21, wherein the file system driver translates a write request addressed to a file located in the storage device received from a user process into one or more block write operations.

9. (previously presented) The computer system of claim 21, wherein the file system driver transmits a write request received from an operating system process.

10. (previously presented) The computer system of claim 21, wherein the file system driver provides a data block number associated with a block in response to a write command directed to the data block during the online data backup process.

11. (currently amended) A method for providing an online data backup process for backing up data stored on a storage device associated with a computer system to a backup storage device, comprising:

providing an intermediate data container;  
informing an operating system driver that the data is in a backup state;  
compiling a list of data blocks located in the storage device that are subject to the online data backup process;  
receiving a write operation directed to a listed data block subject to the online data backup process;  
determining if the listed data block has been copied;  
executing the write operation if the listed data block has been copied; and  
suspending the write operation if the listed data block has not been copied, copying the listed data block to the intermediate block data container, and executing the write operation, wherein the backup storage device ~~is operable to restore~~ restores the storage device multiple times and to any prior stable consistent state of the storage device stored as the block backup data, and wherein the intermediate data container is protected from data overwrite during the online backup process; and

upon receiving an indication that the intermediate block data container is close to overload, the initiating a temporary slowdown of write operations by slowing down processes whose activity results in write operations into a non-backed-up area.

12. (original) The method of claim 11, further comprising the step of copying the listed data block from the intermediate block data container to a backup storage device.

13. (original) The method of claim 11, further comprising flagging a data block once the data block has been copied to the backup storage device.

14. (original) The method of claim 11, further comprising the step of informing the operating system driver that all of the data blocks subject to the online data backup process have been copied to the backup storage device.

15. (original) The method of claim 11, further comprising the step of receiving a data block number associated with the listed data block upon receiving a write operation directed to a listed data block.

16. (original) The method of claim 11, further comprising the step of writing a dirty page to the storage device before informing an operating system driver that the data is in a backup state.

17. (original) The method of claim 11, wherein the step of providing the intermediate block data container further comprises the step of providing a storage device external to the computer system.

18. (original) The method of claim 11, wherein the step of providing the intermediate block data container further comprises the step of providing a selected section of the storage device.

19. (original) The method of claim 11, wherein the step of providing the intermediate block data container further comprises the step of providing a selected file located in a file system associated with the computer system.

20. (original) The method of claim 11, wherein the step of suspending the write operation if the listed data block has not been copied, further comprises the steps of:

determining whether the intermediate block data storage has reached a selected capacity:  
and

copying a selected portion of the intermediate block data storage to the backup storage device if the intermediate block data storage has reached the selected capacity.

21. (currently amended) The computer system of claim [[11]] 1, further comprising:

a file system driver ~~operable to transmit that transmits~~ a write request to write to the storage device; and

a storage device driver program ~~operable to read that reads~~ from the storage device in block mode in response to the read request and ~~write writes~~ to the storage device in block mode in response to the write request.

22. (canceled)

23. (previously presented) The method of claim 11, wherein a list of data blocks located in the storage device that are subject to the online data backup process includes all blocks of an underlying storage device used by file system data and does not don't include free space blocks.

24. (currently amended) A system for data backup, comprising:

a storage device;

a backup storage device ~~operable to restore~~ restoring the storage device multiple times and to any prior stable consistent state of the storage device stored as the block backup data; and

an intermediate storage device, ~~wherein the intermediate storage device is~~ protected from data overwrite during an online backup process,

wherein, when a write command is directed to a data storage block identified for backup that has not yet been backed up, the identified data storage block is copied from the storage

device to the intermediate storage device, the write command is executed on the data storage block in the intermediate storage device, and the data storage block is copied from the intermediate storage device to the backup storage device, and

wherein the system, upon receiving an indication that the intermediate block data container is close to overload, initiates a temporary slowdown of write operations by slowing down processes whose activity results in write operations into a non-backed-up area.

25. (canceled)

26. (currently amended) The system of claim [[25]] 24, wherein the intermediate storage device is located in the storage device.

27. (previously presented) The system of claim 26, wherein the intermediate storage device is a separate partition of the storage device.

28. (currently amended) The system of claim [[25]] 24, wherein the intermediate storage device is a file within ~~the~~ a file system.

29. (previously presented) The system of claim 28, wherein the file system writes dirty pages to the storage device before initiating a data backup process.

30. (canceled)

31. (currently amended) The system of claim [[25]] 24, further comprising:

a file system driver for transmitting the write command to the storage device; and  
a storage device driver program for reading from the storage device and writing to the storage device in block mode in response to the write command.

32. (previously presented) The system of claim 31, wherein the file system driver translates the write command received from a user process and addressed to a file located in the storage device into one or more block write operations.

33. (previously presented) The system of claim 31, wherein the file system driver transmits the write command received from an operating system process.

34. (previously presented) The system of claim 31, wherein the file system driver provides a data block number associated with a block in response to the write command directed to the data block during an online backup.

35. (new) The system of claim 24, further comprising means for slowing down processes whose activity results in write operations into a nonbacked-up area, in response to an indication that the intermediate storage device is close to overload.

36. (previously presented) The system of claim 24, wherein data blocks in the storage device that are subject to the online data backup process includes all blocks of an underlying storage device used by file system data and does not include free space blocks.

37. (previously presented) The system of claim 24, wherein backed up data blocks are restored on the fly to a different storage device.

38. (previously presented) The system of claim 24, wherein an order in which data blocks are scheduled for backup is changed based on information received from an external source.

39. (currently amended) A method for providing an online data backup, comprising:

providing an intermediate storage;

informing an operating system driver that data in ~~the~~ a storage device is in a backup state;

identifying data blocks in the storage device that are subject to the online data backup;

receiving a write command directed to an identified data block;

determining if the ~~listed~~ identified data block has been copied;

proceeding with a write operation if the identified data block has been copied; ~~and~~

suspending the write operation if the identified data block has not been copied, copying the identified data block to the intermediate storage, and executing the write operation on the data block in the intermediate storage;

copying the identified data block from the intermediate storage to a backup storage device,

wherein the storage device is ~~operable to be~~ restored multiple times and to any prior stable consistent state of the storage device stored as block backup data, and wherein the intermediate storage is protected from data overwrite during the online data backup; and

upon receiving an indication that the intermediate block data container is close to overload, the initiating a temporary slowdown of write operations by slowing down processes whose activity results in write operations into a non-backed-up area.

40. (canceled)

41. (previously presented) The method of claim 39, further comprising flagging a data block once the data block has been copied to the backup storage device.

42. (previously presented) The method of claim 39, further comprising informing an operating system driver that all the identified data blocks have been copied to the backup storage device.

43. (currently amended) The method of claim 39, further comprising receiving a data block number associated with the identified data block upon receiving the write operation ~~command~~ directed to the identified data block.



44. (previously presented) The method of claim 39, further comprising writing a dirty page to the storage device before informing an operating system driver that the data is in the backup state.

45. (previously presented) The method of claim 39, wherein the step of copying comprises copying the identified data block to intermediate storage, wherein the intermediate storage comprises an external storage device.

46. (previously presented) The method of claim 39, wherein providing the intermediate storage further comprises providing a selected partition of the storage device.

47. (previously presented) The method of claim 39, wherein the step of providing the intermediate storage further comprises the step of providing a selected file located in a file system associated with the computer system.

48. (canceled)

49. (previously presented) The method of claim 39, further comprising, upon receiving an indication that the intermediate data storage is close to overload, the initiating a temporary slowdown of write operations by slowing down processes whose activity results in write operations into a non-backed-up area.

50. (currently amended) The method of claim 39, wherein a list of data blocks located in the storage device that are subject to the online data backup process includes all blocks of an underlying storage device used by file system data and does not include free space blocks.

51. (currently amended) The method of claim 39, further comprising informing an operating system driver that data in ~~[[a]]~~ the storage device is in a backup state.

52. (previously presented) The method of claim 39, wherein backed up data blocks are restored on the fly to a different storage device.

53. (currently amended) The method of claim 39, wherein an order in which data blocks are scheduled for the online data backup is changed based on information received from an external source.

54. (canceled)